

## **REMARKS**

Claims 1-25, 50-75, and 80-82 are pending in the present application. By the present amendment, claims 1, 6, 18, 50, 54, 64, 69 and 71. No new matter is involved. Applicant respectfully requests reconsideration of the subject application in light of the remarks below. This is submitted in response to the Office Action dated June 24, 2010.

### **I. STATUS OF THE CLAIMS**

In the Office Action, Claims 1-23, 63-66, 69-74, 80-82 were rejected under 35 U.S.C. § 103(a) (hereinafter, “Section 103(a)”) as being unpatentable over UK Patent Application to MacNamee (GB 2372615, hereinafter, “MacNamee”), in view of newly cited U.S. Patent to Morrill, Jr. (5,991,749, hereinafter, “Morrill”).

Claims 50-62 and 67 were rejected under 35 U.S.C. § 102(b) (hereinafter, “Section 102(b)”) as being anticipated by Morrill.

24-25, 48, 68 and 75 were rejected under Section 103(a) as being unpatentable over MacNamee in view of Morrill and further in view of Official Notice.

Applicant respectfully traverses all rejections and requests reconsideration for all of the pending claims for at least the reasons discussed below.

According to embodiments of the present invention, the claimed systems and methods solve specifically the problem in which (1) “third parties wanting to provide services to customers of the carriers must directly access the carrier’s billing system to coordinate

payment”; and (2) further solves the problem in handling “situations where a first customer wishes to transfer a credit amount to a second customer without need to expressly notify the carrier that such transaction is to take place.” (Application. Pars. 009-0010). The claimed systems and methods solve problems associated with or improving of value-added services structure of charges to customers on accounts in a communication network. The specifically claimed payments facilitator’s interaction with the operator of a communications network and the manipulation of accounts with the operator allows for transactions to occur without change to the underlying infrastructure of the operator’s billing system, allowing for third party content providers to use the system without need for modification.

Applicant therefore respectfully submits that the claims of the present invention are allowable over the cited references as the references do not apply for not disclosing, teaching or suggesting all the limitations of the claims.

#### A. REJECTION OF CLAIMS UNDER SECTION 103(a), MACNAMEE & MORRILL

Claims 1-23, 63-66, 69-74, and 80-82 were rejected under Section 103(a) as being unpatentable over MacNamee in view of Morrill. Claims 1, 6, 18, 64, 69 and 71 are the independent claim upon which all remaining claims depend directly or indirectly upon. Applicant respectfully traverses Examiner’s rejections and submits that these claims are allowable over the applied references for at least the following reasons.

Applicant respectfully submits that a prima facie case of obviousness has not been presented since not all three criteria have been satisfied for a showing of obviousness. In the least, the prior art references fail to teach or suggest all of the claimed limitations.

With regard to claims 1 and 69, “both the customer and the payments facilitator each have at least one account with the operator and recorded therewith”. It has been clarified in a claimed embodiment that “the payments facilitator operable independently from control of the operator of the communications network”. Support is found in the Specification as disclosed in Figures 1-2, and par. [0061] indicating the elements of the system operated by the carrier 28. As shown, the “payment facilitator 20” is outside the control operation of the “carrier 28”. Contrary to the Action, MacNamee and Morrill do not teach each and every claim limitation as provided in these claims.

Applicant respectfully notes, that contrary to Examiner’s contention, Morrill does not disclose a payments facilitator/third party that has *an account with the operator* of the communications network and neither does Morrill disclose that the payments facilitator/third party *account with the operator is recorded with the billing system*. Applicant respectfully submits that upon review of Morrill, there is no disclosure, teaching or suggestion of a “payments facilitator” having “at least one account with the operator”. Examiner has clearly identified that in MacNamee, there is no teaching of a “payment facilitator” along with other limitations of the claims and cites to Morrill as teaching such payment facilitator. At most, Morrill discusses a “central processing unit (CPU) of the service provider” (col. 1, lines 54-55).

It appear Examiner may be resorting to this “CPU” in Morrill as teaching the claimed “payments facilitator”. However, the claims recite that the “payment facilitator” having at least one account with the same operator of the communications network as the customer. Rather, if in Morrill the CPU is referred to Applicant’s “payments facilitator”, it is not

disclosed where “both the customer and the payments facilitator *each*” have an “account with the operator”. This would mean the CPU (the operator ) would have an account with itself, which has not been disclosed, taught or suggested. Morrill describes two parties, a payor/user and a payee/recipient and it is the CPU that “debits or credits the appropriate accounts and creates an electronic record of the transfer. The transfer is reflected as a debit on the user’s phone bill and as a credit on the recipient’s mobile phone statement...” (col. 3, lines 21-26). Nowhere is there a mention of a “payments facilitator account” in the disclosure of the payee and payor accounts of Morrill. Moreover, such “CPU” of the operator is not taught as the claimed “payments facilitator operable independently from control of the operator of the communications network”, when the “CPU” is in fact wholly belonging to and controlled by the service provider (operator). Neither is there disclosure that there is a credit made “to the payments facilitator’s at least one account”. There is only disclosure of credit made to the second party/payee/recipient in Morrill. Therefore Morrill does not teach the required elements of Applicant’s claims.

Morrill is related to a mobile service provider handling fund transfers between the accounts of its direct customers or between a customer’s account and an outside account in which there must be direct billing arrangement between the outside account and service provider. Morrill fails to disclose, teach or suggest, the claimed system and method of facilitating payment “using value accredited to a customer of an operator of the communications network” where “both the customer and the payment facilitator each having at least one account with the operator” of the communications network. In Morrill the facilitator (CPU?) and customer is not shown to have any relation with regard to an account on the underlying communication network carrier

since it is not apparent how the CPU, which is the carrier, actually has an account of its own, which would not appear to make much sense. Again, Morrill is inherently concerned with the mobile carrier's customer account transactions where customer 1 would like to notify the mobile carrier of the transfer of funds to common customer 2; or in which customer 1 requires its mobile carrier to be the active participant of fund transfer to a non-customer in which the non-customer must make a financial relationship/agreement directly with the carrier or become a direct customer. These are specifically the drawbacks and problems of such a system of which the Applicant's invention is intended to overcome as noted in pars. 0009-0010 discussed above, in particular, anonymous customer transfers and transactions between a customer and with outside vendors/3<sup>rd</sup> parties without requiring outside vendors to directly access the carrier's billing system to coordinate payment or be required to open an account on the carrier's network.

There is no motivation or suggestion to combine Morrill with MacNamee since neither provide for the claimed structure. Accordingly, there is in fact no teaching whatsoever that the operator of the communications network holds the accounts of both the customer and the payment facilitator nor is there any teaching or suggesting of crediting a payments facilitator/third party account with the same operator of the communications network.

There is no motivation to combine MacNamee and Morrill to arrive at Applicant's invention, since MacNamee clearly fails to show existence of a payment facilitator with an account on the same operator as the customer and Morrill's "CPU" fails to do the same. There is simply no indication of the CPU in Morrill as having at least one account with the operator.

Similarly with regard to claims 6, 18, 64 and 71, as discussed above, neither MacNamee nor Morrill disclose the claimed “payments facilitator operating independently from control of the operator of the communications network”. Claim 6 has been amended to clarify further that the “payments facilitator communicates with the recipient to specify an amount to be transferred prior to making the transfer”, and Claim 71 has been amended to clarify that the further exchange of communication message between payments facilitator and recipient “for the recipient to indicate an amount to be paid to the recipient”. Neither MacNamee nor Morrill disclose, teach or suggest such claimed limitations. Again, Morrill describes a “CPU” of the operator, NOT a “payments facilitator operating independently from control of the operator of the communications network”; and said “CPU” does NOT communicate with a recipient “prior to making the transfer” or “for the recipient to indicate an amount to be paid to the recipient”. Morrill in no manner consults the “recipient” prior to making a transaction as noted in Morrill, col. 4, line 31-35, it is only in “periodic billing statements” from the :mobile service provider which include “the amount” among other things, thereby only informing a customer, after the fact, not the recipient “prior to making the transfer”.

With regard to the remaining dependent claims, it has not been shown that their underlying limitations have been provided by MacNamee in view of Morrill as described above. In particular, the references in combination fail to show “payments facilitator operable independently from control of the operator of the communications network” and neither that “both the customer and the payment facilitator each having at least one account with the operator and recorded with the billing system”. MacNamee, admittedly, shows no “payment facilitator” and neither does the Morrill provide for the customer and payment facilitator each

having an account with the same operator, nor that the “payments facilitator operable independently from control of the operator of the communications network”.

For at least the foregoing reasons, Applicant respectfully submits that claims 1, 6, 54, 69 and 71 are patentable over the combination of MacNamee and Morrill. Since the dependent claims include all the limitations of their base claims, the respective dependent claims are believed patentable for at least the same reasons as their independent claims. Accordingly, Applicant respectfully requests withdrawal the rejection of the claims 1-23, 63-66, 69-74, 80-82 under Section 103(a).

**B. REJECTION OF CLAIMS 50-62 and 67 UNDER SECTION 102(b), MORRILL**

Independent claim 50 has been amended to recite, the method comprises “instructing the billing system to credit the amount to be paid to the recipient to an account with the operator and recorded with the billing system, the account being owned by a third party for facilitating payment between the customer and the recipient, the third party being neither the customer nor the recipient.” Independent claim 54 has been amended to recite the step of “communicated with a recipient, prior to paying the recipient, to specify the amount to be paid to the recipient...”. Morrill on the other hand does not teach each and every claim limitation of these amended claims in order to anticipate the claims. In particular, with respect to claim 50, Morrill fails to teach “an account being owned by a third party for facilitating payment between the customer and the recipient, the third party being neither the customer nor the recipient.” Morrill only contemplates the various accounts of either the payor (party 1) or the payee (party 2). (Col. 4, lines 4-11). These accounts still only belong to these two parties.

Nowhere is there discussed a “third party account” and the “third party being neither the customer nor the recipient”, since the two parties in Morrill are in fact the customer and recipient.

Neither as claimed in claim 54, does Morrill disclose “communicated with a recipient, prior to paying the recipient, to specify the amount to be paid to the recipient...” Contrary to the Action on page 9, Morrill does not disclose such limitation in column 32-37, but only rather records a completed transaction by way of a “billing statement” which shows items such as “nature of the transaction, the amount, the destination account name, ...”. This in no manner teaches a communication “*with a recipient, prior to paying* the recipient”, but in fact shows the communication occurs after the fact, after payment/transaction has occurred. Accordingly, Morrill fails to anticipate the claims for failing to teach each and every claim limitation of claims 50 and 54. It therefore follows that Morrill fails to anticipate the dependent claims 51-53, 55-62 and 67 for the same reasons.

Applicant therefore respectfully requests withdrawal of the rejection of claims 50-62 and 67 under Section 102(b).

#### C. REJECTION OF CLAIMS 24-25, 68, AND 75 UNDER SECTION 103(a)

Claims 24-25, 68, and 75 are rejected under Section 103(a) as being unpatentable over MacNamee in view of Morrill and further in view of Official Notice. Applicant respectfully traverses Examiner’s rejections and submits that these claims are allowable over the applied references for at least the following reasons.



These rejected claims depend directly or indirectly from independent claims 1, 6, 18, 50, 54, 64, 69 or 71. These claims have been discussed above with regard to MacNamee and Morrill. The references fail to teach or suggest each and every underlying limitation of the claims. In particular, the references and Official Notice fail to provide for at least a “payment facilitator operable independently from control of the operator of the communications network; “both the customer and the payment’s facilitator each have at least one account with the operator and recorded with the billing system...”; “the payments facilitator communicates with the recipient to specify an amount to be transferred prior to making the transfer”; and “communicating with a recipient, prior to paying the recipient, to specify the amount to be paid to the recipient.”.

For all the reasons provided above with regard to the independent claims, Applicant respectfully requests withdrawal of the rejection of claims 24-25, 68 and 75 under Section 103(a).

If, for any reason, the Examiner believes that the claims of this application are not yet in full condition for allowance, applicant respectfully requests the Examiner’s constructive assistance and suggestions pursuant to the spirit of MPEP § 2173.02 and § 707.07(j). The Examiner is authorized to make any needed minor corrections or changes.

## II. CONCLUSION

The above-discussed remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above

amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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